



STATE OF DELAWARE

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October 6, 2016

MEMORANDUM

TO: The Chair and Members of the Commission

FROM: Shona Marshall, Public Utility Analyst 

SUBJECT: IN THE MATTER OF THE APPLICATION OF BROKER ONLINE EXCHANGE, LLC FOR A
CERTIFICATE TO PROVIDE ELECTRIC SUPPLY SERVICES WITHIN THE STATE OF DELAWARE
(SUBMITTED: AUGUST 24, 2016, FILED OCTOBER 6, 2016) - PSC DOCKET No. 16-0883

Background

On August 24, 2016 Broker Online Exchange, LLC (the “Company”) submitted an application (the “Application”) with the Delaware Public Service Commission (the “Commission”) for an Electric Supplier Certificate (“ESC”) to act as a Broker in the State of Delaware pursuant to §1012 of the Electric Utility Restructuring Act of 1999, 26 *Del. C.* §1001 - §1020 (the “Act”) and 26 *Del. Admin. C.* §3001, the Commission’s Rules for Certification and Regulation of Electric Suppliers (the “Supplier Rules”).¹

Application

The Company’s original filing was submitted on August 24, 2016 but the submitted Application did not meet the minimum filing requirements (MFR’s). In a letter dated August 30, 2016, Staff requested the Company file a letter of attestation for the financial statements filed as confidential and a professional resume for Arthur Gruen, the Company’s Vice President. The Company filed the requested documentation in a subsequent filing received September 13, 2016 and submitted its permanent business license on October 6, 2016. The receipt of this documentation completed the Application’s MFR’s.

Review and Analysis

Authority to do Business in Delaware

The Company is a limited liability company formed under the laws of the state of Delaware. On August 24, 2016 and October 6, 2016, the Company provided proof issued by the Delaware Secretary of State that it is legally authorized and qualified to do business in the State of Delaware.

¹ Unless otherwise noted, all references to capitalized terms are set forth in the Act and/or the Supplier Rules.

Resident Agent

The Company supplied the contact information for a Delaware Registered Agent listed in the application as Registered Agents Legal Services, LLC located at 1013 Centre Rd., Suite 403 S, Wilmington, DE 19805.

Compliance with Regional Requirements

The Company affirms in its Application that it will only present electricity supply contracts to its customers from Marketers/Electric Suppliers who are in compliance with all applicable PJM requirements.

Financial, Operational, Managerial and Technical Ability

The Company provided a copy of the audited equivalent of the Balance Sheet and Income Statement for the period ended December 31, 2015 as indicia of financial capability under Section 2.1.1.5.1 of the Supplier Rules. The Company also submitted a letter of reference from Sterling National Bank, where the Company has been a customer since November 2013. The letter states that the Company is in good standing and it is signed by Anthony Doherty, the Vice President and Managing Director. Staff believes that the financial statements show substantial evidence of the Applicant's ability to provide services as a Broker in the State of Delaware.

The Company anticipates acting as a Broker serving Small Commercial, Large Commercial, and Industrial customers for the sale or purchase of electricity throughout the State of Delaware. The Company's Application states that it is presently licensed in Illinois, Maryland, Massachusetts, New Hampshire, New Jersey, Ohio, and Pennsylvania. Staff confirmed that the Company is licensed in each of the above mentioned states. The Company does not have any applications pending in other states at this time. The Application states that the Company has not been denied approval nor had its authority revoked by any state commission. Staff believes that this information shows substantial evidence of the Applicant's operational ability to provide services as a Broker in the State of Delaware.

The Application included a summary of the key operating personnel of the Company. Arthur Gruen, CPA is the Vice President of Broker Online Exchange and has held this position since November 2013. He has over ten years of experience in the energy industry and fourteen years of managerial experience. He was employed as an Experienced Associate at Marks Paneth & Shron from August 2002 through June 2004. He began working as a Senior Associate at PricewaterhouseCoopers in June of 2004. He held this position until July 2006. From July 2006 through June 2013, Mr. Gruen served as Commercial Controller, Chief Financial Officer, and Member at Hudson Energy, which was later acquired by Just Energy Group. Staff believes that the Company has demonstrated substantial evidence that its staff has the operational, managerial and technical abilities to perform as a Broker. Staff also performed an internet review and check of the key operating personnel. The search did not reveal any issues.

Surety Bond

The Company did not post a surety bond for the state of Delaware because it is a Broker only and there are no service agreements between the Company and any Delaware Electric Distribution Company. The Company did submit surety bonds issued for its activities in the states of Pennsylvania, Illinois, and Maryland as supplemental documentation for the financial capability requirement.

Verification of Application

The Application did contain a sworn verification signed by Arthur Gruen, Vice President.

Consent to Jurisdiction

The Company consents to the jurisdiction of the Delaware courts.

Contracts

The Company also did not provide any sample contracts for Commercial or Industrial Customers as it is a Broker only and does not and will not have contracts with Retail Electric Customers to provide Electric Supply Service.

Statement of Criminal Activity

The Applicant stated that it has not been charged or convicted of any criminal activity nor have any of its principals or company officers. Applicant has no affiliated interests. An internet review of the Company and its principals revealed no outstanding issues.

Legal Review

Staff submitted this Memo for review by the Attorney on October 11, 2016.

Staff Recommendation

Based on Staff's review and analysis of the Application, the Company has satisfied the requirements of the Act and the Supplier Rules. The Company resolved all outstanding issues with Staff in a timely fashion and the completed Application supports the Company's request for certification. Staff's review and analysis of the Application submitted by the Company demonstrates substantial evidence of capability to render service based on the Company's financial, operational, managerial and technical abilities. Therefore, Staff recommends the Commission approve the Application.